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R/W MANUAL CHANGE

RWMC- 183

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PROCEDURAL HANDBOOK
(1984 Edition)

RWPH-____-____-____
TRANSMITTAL#____

TITLE:
EXCESS LAND

APPROVED BY:

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DATE ISSUED:

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SUBJECT AREA:
CHAPTER 16 – EXCESS LAND

ISSUING UNIT:
OFFICE OF REAL PROPERTY SERVICES

SUMMARY OF CHANGES: Revises 16.01.03.19, Nominal Value Appraisals, in Chapter 16, Excess Land. Also, updates the Section Table of Contents.

PURPOSE

This manual change removes contradictory language in favor of a reference to the Appraisal Chapter.

Formatting update was applied and, where applicable, terminology was updated and general typographical errors were corrected.

PROCEDURES

16.01.03.19 Removes an incorrect definition of “Nominal Value Appraisals” and replaces it with a reference to the appropriate Appraisal Chapter section.

EFFECTIVE DATE

Immediately.

MANUAL IMPACT

- Remove the superseded pages and insert the attached pages in the Manual.
- Record the action on the Revision Record.

REVISION SUMMARY

<u>Chapter</u>	<u>Remove Old Pages</u>	<u>Insert New/Revised Pages</u>
	Remove the following in its entirety:	Replace with the following in its entirety:
16 - Sections	Table of Contents (REV 7/2007) 16.01.00.00 (Rev. 1/99)	Table of Contents (REV 9/2008) 16.01.00.00 (REV 9/2008)

CHAPTER 16

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16.00.00.00 - EXCESS LAND

16.01.00.00 GENERAL

16.01.01.00 **Function and Responsibility**

The Excess Land function is responsible for administering the inventory and disposition of Department-owned real property that is no longer required for rights of way or other operational purposes.

District and Region Excess Land staff have full delegation to operate and approve within the parameters outlined herein, and as shown in the matrix in R/W Manual Section 2.05.00.00. Any activities outside the scope of this Manual and/or the delegation matrix shall be subject to approval by HQ R/W. Such approval may be conveyed either in writing or by electronic means. A copy of said approval shall be placed in each Excess Land parcel file to which it applies.

16.01.02.00 **Creation of Excess Land**

Excess land may be created in several ways. Landlocked or uneconomic remnants not required for the right of way may have been acquired. Downscoped projects, superseded highway segments, route rescissions, route unadoptions by legislative action, and lands decertified at the request of adjoining owners may also create excess. Properties no longer required for operating purposes, such as maintenance facilities or material and disposal sites, may be declared excess.

16.01.03.00 **Definitions**

16.01.03.01 **Excess Land**

Excess land is real property, title to which is vested in the State of California, Department of Transportation, and which is determined and certified to be not required for rights of way or other operational purposes of the Department. The requirements for rights of way are established by the certificate of sufficiency contained in the appraisal report. Requirements for real property for other operational purposes are established and authorized by approval of specific Project Reports.

Excess land does not include:

- Airspace under or over State highways
- Hydrocarbon, mineral, or water rights
- Personal property
- Operating material and disposal sites

16.01.03.02 **Inventory Parcel**

An inventory parcel is excess land that is carried on the accounting inventory as an asset. Each inventory parcel has a VTA, Value at the Time of Acquisition. Inventory parcels are all excess land, as defined above, except those parcels specifically defined as non-inventory. Inventory parcels include land decertified at the request of adjoining owners.

16.01.03.03 **Non-Inventory Parcel**

A non-inventory parcel is excess land the Department intends to convey to a specific entity under the terms of a written agreement, and decertified access rights. These parcels are not part of the Division of Accounting (Accounting) inventory and do not have a VTA.

Examples of non-inventory parcels of excess land include:

- Property rights to be conveyed pursuant to an executed utility agreement for facility relocations.
- Property specifically acquired for another agency under terms of a written agreement.
- All decertified access rights where no other property rights are involved.
- Property rights, including underlying fee in local streets, to be conveyed to a local agency under terms of a freeway and/or cooperative agreement.
- Parcels acquired for exchange pursuant to a written agreement.
- Parcels acquired for replenishment housing facilities.
- Parcels acquired for functional replacement (see Section 8.30.00.00).

16.01.03.04 **Planning Parcel**

A planning parcel is a parcel identified only for planning purposes. It represents unacquired or undeclared excess land which may or may not eventually become excess. These parcels are not part of the Accounting system.

16.01.03.05 **Disposal Unit**

A disposal unit is the number given to the property for disposal purposes. It may consist of one or more parcels. When parcels are grouped for disposal, the lowest parcel number becomes the disposal unit number. Multiple parcel disposal units may be split or combined (along the original parcel lines ONLY) at the discretion of the Excess Land Manager to optimize marketability or disposal potential as necessary.

16.01.03.06 **Inventory Value (VTA)**

Inventory Value (VTA) is the fair market value of the excess at the time of acquisition, considered as a separate parcel. The inventory value may not exceed the pro rata cost of the parcel.

16.01.03.07 **Acquisition Price (Pro Rata Cost)**

The amount paid by State for the excess parcel at the time of original acquisition.

16.01.03.08 **Direct Conveyance of Easements**

This category is limited to the State's conveyance of easements to public utility companies and political subdivisions, special districts, etc., or by direct sale where grantee has the power of eminent domain.

16.01.03.09 **Direct Conveyance Pursuant to Cooperative Agreement**

Pertains to the State's conveyance of property acquired pursuant to an agreement under which the public body and the State agree to jointly share in the acquisition and construction of an improvement jointly benefiting the State and the public body, with the fee or easement title to be conveyed to the public body for their future maintenance of the facility.

16.01.03.10 **Direct Fee Sale to Government Agencies**

Used when excess fee-owned property is sold to public entities without calling for competitive bids for consideration equal to the appraised fair market value of the property (CTC Resolution G-2).

16.01.03.11 **Direct Sale to Eligible Present Occupants**

Direct sale, either at fair market value to present occupants (tenants) who meet the eligibility requirements under CTC Resolution G-2 (as amended), or at less than fair market value (i.e., at an affordable price), to present occupants subject to Government Code Section 54235 - see Section 16.10.00.00 (CTC Resolution Nos. G-66, G-70, and G-72).

16.01.03.12 **Direct Sale to Former Owners**

Direct sales, at fair market value, to former owners who have remained in occupancy (CTC Resolution G-2).

16.01.03.13 **Direct Sale to Housing Entity**

Direct sale, at less than fair market value (i.e., at a reasonable price), to a housing entity that will use the property for low- and moderate-income housing purposes pursuant to Government Code Section 54235, et seq. - see Section 16.10.00.00 (CTC Resolution G-80).

16.01.03.14 **Exchange Per Contract**

Authorized by S&H Code Section 118, whereby excess land is conveyed to a party from whom the State is acquiring right of way and by using the value of the excess land as whole or part consideration for the required property or interest needed for State highway purposes.

16.01.03.15 **Finding "A" Sales**

Direct sale to adjoining owner, without calling for competitive bids, of small, odd-shaped, fee-owned parcels incapable of independent development and having a higher and better use as part of the adjoining property or, if sold to other than the adjoining owner, would cause an undue or unfair hardship to such adjoining owner in the normal development or operation of their property (CTC Resolution G-2 - as amended).

16.01.03.16 **Finding "B" Sales**

The sale of such excess parcels to other than the adjoining owner would deprive such adjoining owner of vested right of access to a public highway and would create a possible cause for action against the Department (CTC Resolution G-2 - as amended).

16.01.03.17 **Miscellaneous Conveyances**

Pertains to the sale of State's interests (such as access rights, mineral rights, or easements outside of the operating right of way) no longer required for operation of the highway facility.

16.01.03.18 **Appraised Value**

An estimate of the highest price the property will bring under the market conditions to which it is exposed as supported by a written staff or independent fee appraisal report.

16.01.03.19 **Nominal Value Appraisals**

A conclusion of low value as defined in R/W Manual Chapter 7.02.14.00.

16.01.03.20 **Public Sale Estimate (PSE)**

An abbreviated report that estimates the fair market value of the parcel for the purpose of a public auction.

16.01.03.21 **Private Sale**

When property is sold by sealed bid after Notices of Sale have been mailed only to adjoining owners due to the peculiar size, shape, or landlocked condition of the property which precludes its independent development.

16.01.03.22 **Public Sale**

Public sales are by voice auction, sealed bid, or continuous bid after Notices of Sale are mailed to prospective purchasers.

16.01.04.00 **Organization**

The DDC-R/W shall establish a District Excess Land Unit, hereinafter referred to as Excess Land, to efficiently and expeditiously dispose of excess land and improvements thereon in accordance with S&H Code Section 118.6. Responsibilities for all parcels in the Excess Land Inventory shall be properly assigned to ensure disposal in accordance with the principles outlined herein. HQ R/W will evaluate the effectiveness of the Excess Land Unit through periodic reviews and audits of district procedures.

In accordance with community planning and environmental values, sound business practice, integrity, and State law, Excess Land will:

- Minimize the number of parcels on the Excess Land Inventory.
- Minimize the holding period from date of acquisition to date of disposal.
- Maximize the return from sale of the land or interest conveyed.

16.01.05.00 **Review of Appraisal Maps**

Subject to final approval of the District Director (DD), Excess Land is responsible for reviewing and approving the location of right of way lines to assure that fragmentary remainders are minimized. Right of Way approval is required prior to:

- Issuance of any appraisal map that contains excess land.
- Revision of any appraisal map that affects or creates excess land.

The appraisal certification should contain documentation of the review of appraisal maps for minimizing excess.

Excess Land reviews all initial right of way requirements and any design changes in accordance with criteria in the table entitled "Review Criteria."

Excess Land coordinates with Airspace to identify potential excess that should be included in the right of way for airspace use. Airspace reviews initial right of way requirements and design changes that create excess land adjacent to or within interchanges or adjacent to viaduct sections for potential airspace uses.

REVIEW CRITERIA		
Type of Parcel	Action	Considerations
Meets the minimum standards of local zoning ordinances, or may be granted zoning variances, and is capable of independent development.	Should not be incorporated in the right of way at the time of appraisal map review.	In evaluating potential for independent development, consider such factors as topography, size, shape, and access as well as zoning requirements.
Not capable of independent development, but may be plotted to adjoining ownerships with reasonable expectation of enhancement to the adjoining property.	Should not be incorporated in the right of way at the time of appraisal map review.	In evaluating enhancement, consider the extent to which existing improvements and development on the receiving property would have to be rearranged to make suitable use of the plotted excess parcel. Also consider the potential for rezoning and redevelopment and the interest of adjoining property owners in purchasing such excess parcels.
Not capable of independent development and not considered to have potential for reasonable enhancement to adjoining properties if plotted.	Should be incorporated in the right of way.	Consider the costs of maintenance and weed abatement and the aesthetic effect on both the community and the highway if the parcel is not incorporated and subsequently determined to be unsalable.

16.01.06.00 **Map Review Prior to Plans, Specifications, and Estimates (PS&E)**

A second review of maps is required prior to submission of PS&E to Headquarters if the project involves purchase of right of way or the creation of excess land. Parcels not originally incorporated into the right of way and parcels offered for sale with unsatisfactory results should be reconsidered for incorporation. At the conclusion of the review, Excess Land includes a statement in the PS&E submittal that it has completed a review of the contract plans and maps.

16.01.07.00 **Parcel File**

Excess Land maintains a file on every parcel in the Excess Land Inventory until final disposition is completed, including full reconveyance. The parcel file shall contain as a minimum the items listed in Exhibit 16-EX-23.

16.01.08.00 **Parcel Diary**

A parcel diary sheet is required for each disposal unit. The diary is maintained in sufficient detail to document the steps taken towards ultimate disposal of the property. It is part of the Excess Land parcel file and includes the following information as a minimum:

- **Name of Assigned Agent**
- **Signed and Dated Entries** - documenting verbal and written inquiries, review dates and suggested actions, personal contacts regarding design studies and proposed routes, and personal contacts involving sales attempts.
- **Public Sales** - dates and results.
- **Other** - any information necessary to understand the handling of the disposal unit.

The diary and/or file shall contain documentation that prior to public sale, "FOR SALE" sign(s) were posted on the property, advertisements were placed in newspaper(s), notices of sale were sent to appropriate governmental agencies, and copies of brochures were mailed to all owners adjoining the property being sold.

16.01.09.00 **Excess Land Parcel Acquisition/Disposal Summary (Form RW 16-1)**

An Excess Land Parcel Acquisition/Disposal Summary (RW 16-1) is prepared and maintained for each individual parcel of excess land and retained in the Excess Land parcel file during the Department's ownership.

Districts are to provide a copy of the RW 16-1 to Accounting after recordation of the Director's Deed. The RW 16-1 notifies Accounting to remove the VTA from the Accounting inventory.

16.01.10.00 **Excess Land Inventory Memorandum (Form RW 16-28)**

Excess Land prepares Form RW 16-28 and sends it to Accounting to record the VTA. This form is also used to make changes to the VTA. VTA additions or expenditure adjustments are due to actions district staff takes to create, adjust, return, incorporate, or delete excess parcels.

16.01.11.00 **Excess Land Fiscal Transmittal (Form RW 16-29)**

Excess Land prepares Form RW 16-29 to document fiscal transmittals to Accounting:

- **Cashiering Unit** - funds received from a buyer in connection with sale of excess land, decertification deposit, or miscellaneous fees.
- **Accounts Receivable Unit** - request regarding related adjustments, such as refunds or forfeiture of deposits.

16.01.12.00 **Discriminatory Rezoning**

Excess Land investigates and monitors local agency master plan and zoning proposals that affect the Department's excess property and property held for future construction. Notification of a planning action may be by direct correspondence from the local agency or by formal notice in a newspaper of general circulation pursuant to Government Code Sections 65854 and 65856. Although formal notices are usually required, Section 65858 provides local agencies with authority to adopt certain interim zoning ordinances as urgency measures without the above notice requirements.

Excess Land shall notify the Legal Division when it appears a loss in value will result from a proposed planning or zoning action affecting the Department's property. Legal and Right of Way jointly evaluate the proposed action as promptly as practicable to allow an appropriate departmental response.

The DDC-R/W shall notify the DD immediately of any proposed master plan or rezoning activity that is unreasonable, would discriminate against the Department, or would reduce the value of the property.

Active opposition to discriminatory planning and rezoning activity is the Department's standard policy. Active opposition includes appearing at public hearings to present arguments and consulting with local agency staff. Opposition should not include efforts amounting to political pressure on individuals involved in the local planning process.

The CTC is concerned about this subject. The district may ask HQ R/W to request assistance from the Real Estate Advisory Panel and the CTC.

Legal shall initiate action unless the DD decides that it is not in the best interest of the Department to oppose a local agency's planning or rezoning activity. The DD shall document by memorandum the reasons for not contesting the local agency's proposed action and forward a copy of the memorandum to the Deputy Director Project Development.

Excess Land should notify HQ R/W if Legal's opposition is unsuccessful. HQ R/W will refer the matter to the Director to determine whether the case warrants filing a lawsuit against the local agency.

16.01.13.00 **Initiating Zoning Upgrades of Excess Land**

Agency Action Request approved April 16, 1997 allows the district, with prior approval from HQ Right of Way, to initiate zoning upgrades of excess land.

The district may consider hiring consultants to obtain zoning upgrades and entitlements for excess property in limited cases. The district must prepare a marketing analysis demonstrating the benefits clearly exceed the risks and costs. The analysis is retained in the district and a copy must be forwarded to HQ Right of Way. HQ approval of the analysis is not required.

The district may ask HQ Right of Way to request that the Real Estate Advisory Panel (REAP) provide advisory assistance to the district in developing the plan.